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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,349	03/22/2004	Brian Wang	BHT-3117-191	8993

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EXAMINER

NASH, BRIAN D

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 08/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/805,349

**Applicant(s)**

WANG, BRIAN

**Examiner**

Brian D Nash

**Art Unit**

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2004.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 22 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 1 is objected to because of the following informalities: The term “Said” begins with a capital in subsequent paragraphs of the claim. Each paragraph ends with a colon “:” instead of a semicolon “;”. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. There are several issues that render claim 1 indefinite.

The phrase “...said gunpoint having its interior transversely formed with...” at the end of the 2<sup>nd</sup> paragraph is vague, indefinite, and confusingly worded because it is not clear what applicant is claiming. Specifically, it is not clear what structural limitations are being claimed. The same is true for “...said gunpoint having one side transversely bored with...” at the beginning of the 4<sup>th</sup> paragraph.

The phrase “...extending outward horizontally and forming a pivotal portion...” in the middle of the 5<sup>th</sup> paragraph is not clear as there is no frame of reference defined. It is indefinite as to what the phrase is defining. Also, it is not clear how a “pivotal portion” is formed since neither the specifications or the drawings allude to any sort of pivotal element on the slot-sealing member.

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Also in the 5<sup>th</sup> paragraph, there are two instances where an element has been previously defined, but later referred to in broader and indefinite terms. "...said sealing portion..." should properly be "...said slot sealing portion..." and "...said connect portion..." should properly be "...said vertical connect portion...".

Claim 1 also recites numerous instances of "its". In some instances it is simply not clear what "its" refers back to and in some other instances there is insufficient antecedent basis for this limitation in the claim. There is also a lack of basis for "the outer side". The examiner suggests using terminology that more positively states the structural limitations of the device rather than using the phrase "having its" to define several structural elements.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by US 4,174,802 to Maestri. Insofar as the claimed invention is understood, Maestri discloses the same invention including a device usable with a nail gun and nail cartridge suitable for adjusting to nails of different size. Specifically Maestri shows a slot-sealing member (4) which permits relative movement via a through screw (16) in order to accommodate nails of different size (see Fig 3).

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***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Catalano, Haytayan, Kaneko, Ohuchi, Liang, Akiba, Schuster, and Yao are cited to show related references.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Nash whose telephone number is (703) 305-4959. The examiner can normally be reached on Monday – Thursday from 8 a.m. to 5 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached at 703 308-2187.

The fax number for this Group is: 703-872-9306

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

Brian D. Nash  
11 August 2004

A handwritten signature in black ink, appearing to read 'S. Smith', with a stylized flourish extending from the end.

**SCOTT A. SMITH  
PRIMARY EXAMINER**